



NOTARY PUBLIC GUIDE



GEORGE FIRESTONE

SECRETARY OF STATE

The Capitol

Tallahassee, Florida 32301

Dear Notary Public:

Yours is an important office. It is important for you to fully understand the duties and responsibilities of your office as spelled out in the laws of Florida.

That is the purpose of this brochure. We sincerely hope it will be helpful to you and will make you more fully aware of the faith and trust placed in you as a public official of this State.

Obviously, it is impossible to cover all questions relating to your duties as a Notary Public in the short space of this brochure. Therefore, I want to emphasize that if you have any questions relating to your responsibilities as a Notary, please feel free to call on this office at any time for information or assistance. We are here to help you.

Wishing you success as a Notary Public and with kind regards, I remain.

A handwritten signature in black ink, appearing to read "L. Wayne" followed by a stylized flourish.

Secretary of State

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I. NOTARY PUBLIC LAW

Every official act of a Notary Public has legal ramifications. Therefore, it is essential that the Notary Public thoroughly familiarize himself with all aspects of the Notary Public Law. Following, for your convenience, is a full reprint of the Notary Public Law as it appears in Chapter 117 of the Florida Statutes:

117.01 APPOINTMENT, APPLICATION, FEE, TERM OF OFFICE, POWERS, BOND AND OATH. —

(1) The Governor may appoint as many notaries public as he shall deem necessary, each of whom shall be at least 18 years of age, and a permanent resident of the state.

(2) Application for appointment shall be signed by the applicant, accompanied by a fee of \$15 and the oath and bond required by subsection (4), and be in a form prescribed by the Department of State which shall require, but not be limited to, the following information:

(a) Full name and residence or business address, home and business telephone numbers, date of birth, citizenship status, affidavit of good character from someone unrelated to the applicant, declaration of permanent residence, and a statement of all felony convictions. Each applicant must certify that the application is true and correct to the best of his knowledge.

(3) Said notaries public shall hold their respective offices for 4 years and shall use and exercise such office of notary public for such places and within the boundaries of the state, to whose protestations, attestations, and other instruments of publication due credence shall be given. The Governor may remove any notary public for cause.

(4) Every notary public shall, prior to his or her executing the duties of said office, give bond to the Governor for the time being, in the penalty of \$1,000, conditioned for the due discharge of his said office, and also take an oath that he will honestly, diligently, and faithfully discharge the duties of a notary public. Said bond shall be approved and filed

with the Department of State. Such bond shall be executed by a surety company for hire, duly authorized to transact business in Florida. Said bond must be approved by the Department of Banking and Finance before issuance of the commission.

(5) No person shall obtain nor use a notary public commission in other than his legal name, and it shall be deemed unlawful for a notary public to notarize his own signature. Any person applying for a notary public commission may be required to submit proof of his identity to the Department of State if so requested. Any person violating the provisions of this subsection shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) The fee required by subsection (2) shall be deemed to include the fee required by s. 113.01 for issuance of a commission.

History.—Sept. 13, 1822; RS 218; s. 1, ch. 4544, 1897; GS 302; RGS 413; CGL 479; s. 1, ch. 21765, 1943; s. 1, ch. 63-138; s. 1, ch. 65-256; ss. 1, 2, ch. 67-54; ss. 10, 12, 35, ch. 69.106; s. 70, ch. 71-136; s. 1, ch. 75-161; s. 6, ch. 77-121; ss. 5, 6, ch. 81-260.

Note.—Ch. 73-21, Laws of Florida, removed the disability of nonage for persons 18 years of age and older.

cf.—s. 113.01 Fee for commissions issued by Governor. Ch. 137 Bonds of county officers.

117.02 WOMEN ELIGIBLE. —

Any woman who is commissioned as a notary public and subsequently changes her name by marriage or any other method may continue to hold her commission under the name in which it was issued until said commission shall have expired. Upon expiration, she shall then apply for a new commission using her new legal name.

History. —s. 1, ch. 4742, 1899; GS 303; RGS 414; CGL 480; s. 2, ch. 63-138; s. 2, ch. 75-161; s. 7, ch. 77-121; s. 7, ch. 81-260.

Note.—Ch. 73-21, Laws of Florida, removed the disability of nonage for persons 18 years of age and older.

117.03 ADMINISTRATION OF OATHS; PENALTIES FOR FALSE OATHS. —

(1) In all cases in which it may be necessary to the due and legal execution of any writing or document whatever to be attested, protested, or published under the seal of his office, any notary public may administer an oath and make certificate thereof. The notary shall not take an acknowledgment of execu-

tion, as provided in s. 117.07, in lieu of an oath when an oath is required.

(2) Any person making a false oath before a notary public shall be guilty of perjury and be subject to the penalties, forfeitures, and disabilities that are prescribed by law in cases of perjury under chapter 837.

History.—Sept. 13, 1822; RS 219; GS 304; RGS 415; CGL 481; s. 20, ch. 73-334; s. 1, ch. 80-173.

117.04 MAY SOLEMNIZE MARRIAGES AND TAKE ACKNOWLEDGMENTS. —

Notaries public are authorized to solemnize the rites of matrimony and to take renunciation and relinquishment of dower and the acknowledgments of deeds and other instruments of writing for record, as fully as other officers of this state are; and for so doing they shall be allowed fees not to exceed those allowed by law to Clerks of the Circuit Court for like services.

History.—s. 2, ch. 1127, 1860; RS 220; GS 305; RGS 416; CGL 482; s. 20, ch. 73-334; s. 8, ch. 81-260.

117.05 FEES. —

The fees of notaries public may be prescribed by the Department of State but shall not exceed those provided by law to the Clerks of the Circuit Court for like services.

History.—Ch. 3874, 1889; RS 221; GS 306; RGS 417; CGL 483; s. 8, ch. 81-260.

cf.—s. 116.06 Certain officers are not required to report fees.

ss. 116.35-116.38 State, county and municipal governmental units; commissions; fees.

s. 320.04 Motor vehicle licenses; service charge.

117.06 VALIDITY OF ACTS PRIOR TO APRIL 1, 1903. —

Any and all notarial acts that were done by any notary public in the state prior to April 1, 1903, which would have been valid had not the term of office of the notary public expired, are declared to be valid.

History.—s. 1, ch. 5217, 1903; GS 307; RGS 418; CGL 484.

117.07 STATEMENT OF TIME OF EXPIRATION OF COMMISSION; SEAL. —

(1) Unless the date of expiration of his commission is included on the notary seal, a notary public in

the state shall add to his official signature to any certificate of acknowledgment made before him a statement of the time of the expiration of his commission as notary public in words and figures as follows:

“My commission expires (Herein insert the date when the commission expires.)”

(2) A notary seal shall be affixed to all documents notarized, which may be of the rubber stamp or impression type and shall include the words “Notary Public — State of Florida.” The seal shall also include the name of the notary public and may include the date of expiration of the commission of the notary public.

History. —s. 1, ch. 5218, 1903; GS 308; RGS 419; CGL 485; s. 3, ch. 63-138; s. 1, ch. 72-8; s. 3, ch. 75-161; s. 2, ch. 80-173.

117.08 NOTARY PUBLIC ACTING AFTER EXPIRATION OF COMMISSION. —

Every notary public in this state who shall take any acknowledgment of any instrument as a notary public, or who makes any certificate as such, after the expiration of his commission, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 2, ch. 5218, 1903; GS 3496; RGS 5376; CGL 7510; s. 71, ch. 71-136.

117.09 PENALTIES. —

(1) Every notary public in the state shall require reasonable proof of the identity of the person whose signature is being notarized and such person must be in the presence of the notary public at the time the signature is notarized. Any notary public violating the above provision shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. It shall be no defense under this section that the notary public acted without intent to defraud.

(2) Any notary public in this state who shall falsely or fraudulently take any acknowledgment of any instrument as a notary public or who falsely or fraudulently makes any certificate as a notary public or who falsely takes or receives an acknowledgment of the signature on any written instrument shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History. —s. 4, ch. 63-138; s. 72, ch. 71-136.

II. STANDARD FORMS MOST FREQUENTLY USED BY NOTARIES

In carrying out their duties, Notaries Public often find it helpful to use certain standard forms for such things as attesting signatures and certifying copies of documents. Following are examples of some of the forms most frequently used by Notaries. Because these forms are both brief and legally sufficient, they are recommended by the Department of State.

AFFIDAVIT

STATE OF FLORIDA
COUNTY OF _____

Before me this day personally appeared _____
who, being duly sworn, deposes and say (here insert fact to be
affirmed by affiant).

(Signature of person making affidavit)

Sworn to and subscribed before me this _____ day
of _____ A.D. 19__

Notary Public
State of Florida

My commission expires _____

CERTIFICATE

STATE OF FLORIDA
COUNTY OF _____

I, the undersigned authority, hereby certify that the foregoing is a
true and correct copy of the instrument presented to me by _____
_____ as the original of such instrument.

WITNESS my hand and official seal, this _____ day
of _____ A.D., 19__.

Notary Public
State of Florida

My commission expires _____

MARRIAGE CEREMONY

Couple must have valid license.

(Man should stand on Woman's right, and the Notary Public asks the man as follows:)

"_____, do you take this woman to be your lawful wedded wife, to live together in the Holy Estate of Matrimony; to love, honor, comfort her and keep her in sickness and in health, and forsaking all others, keep you only unto her so long as you both shall live?"

(Man answers "I do.")

(The Notary Public asks the Woman as follows:)

"_____, do you have this man to be your lawful wedded husband to live together in the Holy Estate of Matrimony, to love, honor, comfort him and keep him in sickness and in health, and forsaking all others, keep you only unto him so long as you both shall live?"

(Woman answers "I do.")

(If couple brings ring ask man to place ring on her finger and have them both repeat after you:)

"With this ring, I thee wed in love and truth and with all my worldly goods I thee endow."

(Then ask couple to join right hands and pronounce them man and wife as follows:)

"Inasmuch as _____ (man) and _____ (woman) have this day consented together in Holy Wedlock and have given and pledged their troth each to the other in the presence of this company, by virtue of authority vested in me under the laws of the State of Florida, I now pronounce you Man and Wife."

ACKNOWLEDGMENT FOR PERSONS

STATE OF FLORIDA

COUNTY OF _____

Before me personally appeared _____ to me well known and known to me to be the person described in and who executed the foregoing instrument, and acknowledged to and before me that _____ executed said instrument for the purposes therein expressed.

WITNESS my hand and official seal, this _____ day of _____ A.D., 19 ____.

Notary Public
State of Florida

My commission expires _____

**FORM OF OATH THAT MAY BE ADMINISTERED
TO WITNESSES GIVING TESTIMONY
IN COURT CASES**

“Do you solemnly swear (or affirm) to tell the truth, the whole truth and nothing but the truth, so help you God?”

or

“Do you solemnly swear that the testimony you shall give in this case shall be the truth, the whole truth and nothing but the truth, so help you God?”

(When administering an oath to a witness have the witness raise his right hand and answer in the affirmative after the oath is administered to him)

**III. QUESTIONS MOST OFTEN
ASKED BY NOTARIES**

- May a husband and wife notarize each other's signature?

Yes, but such a practice is not recommended. The Attorney General has ruled that the mere fact of a family relationship to a party involved does not disqualify an individual from notarizing documents, provided the individual has no interest in the transaction being notarized. Although it is legal, it is not considered a good legal practice. If the notarized documents become involved in a lawsuit, both the husband and wife might have to testify.

- May a Notary Public perform a marriage ceremony?

Yes, see Section 117.04 of the Florida Statutes.

- How can a commission be revoked?

Chapter 117 of the Florida Statutes states that the Governor may remove any Notary Public for cause – that is, for some demonstrated misuse of the Notary Public commission or reasons to that effect.

- May a woman who changes her name by marriage or by any other method continue to use the name in which she was commissioned or does she have to obtain a new commission?

The Notary Public Law states that any woman who is commissioned as a Notary Public and subsequently changes her name may continue to hold her commission under the name in which it was issued until the commission expires. Upon expiration, she shall then apply for a new commission using her legal married name, if she changed her name by marriage, otherwise she shall apply for renewal of her commission filing an updated application indicating her marriage but continual use of her legal maiden name.

- How is a commission renewed?

You follow the original procedure by submitting an application, oath of office, notary bond and commission fee of \$15 to the Secretary of State.

- Does a person have to be a permanent resident of the State of Florida to become a Notary Public?

Yes.

- May a Florida Notary Public use his commission to notarize papers in another state?

No. However, you can notarize papers from out of state so long as you do this in the State of Florida.

- What procedure is followed if a Notary seal or stamp is lost or stolen?

First, notify police of theft and order new seal and stamp. Then notify the Department of State for records to be marked for protective measures.

- May I sign as J.B. Doe if my commission was issued as John B. Doe?

No, you must sign your name exactly as you were commissioned.

- How far in advance should I apply for renewal of my commission?

You should apply for a renewal commission approximately a month prior to the expiration date of your present commission.

- Is it necessary to register my commission with the Clerk of the Circuit Court?

This is required in some counties but not in others. If you are in doubt, we suggest you check with the Clerk of the Circuit Court in your county.

- May I authorize someone to use my signature, stamp and seal in my absence?

No, the commission is issued in your name only. We cannot certify to a signature other than your own.

- May a woman receive a Notary Public Commission in her husband's given name and surname, such as Mrs. John Smith or Mrs. J.A. Smith?

No, the Attorney General issued an opinion that a married woman should be commissioned under her given name and her husband's surname.

- May a State, County or municipal agency, board, commission or department, use funds to secure Notary Public commissions for employees?

Yes, as authorized by Chapter 67-282, Florida Statutes.

IV. A WORD OF CAUTION

Your official actions as Notary Public can have great significance in business and legal documents. Therefore, in closing we would like to say a few words of caution:

If there is any doubt as to your eligibility concerning the performance of an act or of the transaction that you are authenticating, consult your at-

torney or refer the parties to an attorney. Notaries Public are not attorneys and should not give legal advice or perform duties of attorneys.

Never attest an oath or take an acknowledgment unless the party or parties making the oath or acknowledgment are actually in your presence and known to you.

Do not take an oath or accept an acknowledgment over the telephone, even if the party or parties are known to you or represented by someone else to be such parties.